

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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Court Minutes

December 17, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Morrison, Associate Justice; Cantil-Sakauye, Associate Justice; and Harper, bailiff.

**C055227 SEABRIGHT INSURANCE COMPANY v. WORKERS' COMPENSATION
APPEALS BOARD; FITZPATRICK**

Cause called. Mark L. Rigenbach argued for petitioner. Melissa C. Brown argued for respondents. Cause submitted.

**C055399 FITZPATRICK v. WORKERS' COMPENSATION APPEALS BOARD;
MONTESSORI OF PLACERVILLE et al.**

Cause called. Melissa C. Brown argued for petitioner. Mark L. Rigenbach argued for respondents. Cause submitted.

At 10:02 a.m., the court recessed. At 10:06 a.m., the court reconvened.

C053918 NOBEL et al. v. DRAPER et al.

Cause called. Isauro Villarreal argued and Aubrey Hubbert appeared only for respondents. Cause submitted.

At 10:20 a.m., the court recessed. At 10:26 a.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

C052801 THE PEOPLE v. CURRY et al.

Cause called. Rebecca P. Jones, court appointed counsel, argued for appellant Russell; Janice M. Lagerlof, court appointed counsel, argued for appellant Curry; Hilda Scheib, court appointed counsel, argued for appellant Buford. Daniel Bernstein, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:58 a.m., the court recessed. At 2:03 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Hull, Associate Justice.

C053394 THE PEOPLE v. HARRIS

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. Harry Joseph Colombo, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:16 p.m., the court recessed. At 2:19 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Robie, Associate Justice.

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C053479 FLORES v. CITY OF STOCKTON et al.

Cause called. Donald A. Wilson argued for appellant. Charmaine Jackson argued for respondents. Cause submitted.

At 2:37 p.m., the court recessed. At 2:46 p.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C053775 BRACEWELL v. NATAWATASE, etc., et al.; DEPARTMENT OF HEALTH SERVICES

Cause called. Thadd A. Blizzard argued for appellant. Barbara Haukedalen, Deputy Attorney General, argued for respondents. Cause submitted.

At 3:20 p.m., the court recessed. At 3:25 p.m., the court reconvened with Morrison, Associate Justice; Robie, Associate Justice; and Cantil-Sakauye, Associate Justice.

C053640 CITY OF OROVILLE v. OROVILLE POLICE OFFICERS ASSOCIATION et al.

Cause called. Richard C. Bolanos argued and Michael J. DePaul appeared only for appellant. Tawni O. Parr argued for respondents. Cause submitted.

At 3:51 p.m. court recessed, until December 18, 2007 at 9:30 a.m.

C051364 THE PEOPLE v. CHERRY (Not for Publication)
C051462

The judgments in appeal Nos. C051364 and C051462 are affirmed.

DAVIS, Acting P.J.

We Concur: Nicholson, J.

Butz, J.

C051588 THE PEOPLE v. LARSEN (Not for Publication)

The judgment is affirmed.

DAVIS, Acting P.J.

We Concur: Morrison, J.

Hull, J.

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- C052683 THE PEOPLE v. CLARK (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Blease, Acting P.J.
 Davis, J.
- C052840 THE PEOPLE v. MCCARTER et al. (Not for Publication)**
The judgment as to defendant McCarter is affirmed. The judgment as to defendant Fondren is modified to a sentence of 35 years to life. The judgment is affirmed as modified. The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections and Rehabilitation.
DAVIS, Acting P.J.
We Concur: Raye, J.
 Morrison, J.
- C053009 THE PEOPLE v. ALVAREZ (Not for Publication)**
The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Robie, J.
 Butz, J.
- C053053 THE PEOPLE v. TATUM (Not for Publication)**
The judgment is affirmed.
DAVIS, Acting P.J.
We Concur: Robie, J.
 Butz, J.
- C053090 THE PEOPLE v. CHAVEZ (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We Concur: Blease, Acting P.J.
 Davis, J.
- C053507 THE PEOPLE v. CARAVAJAL (Certified for Publication)**
The appeal is dismissed.
DAVIS, J.
We Concur: Blease, Acting P.J.
 Nicholson, J.

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- C055089 THE PEOPLE v. TILLEY (Not for Publication)**
The appeal is dismissed.
NICHOLSON, Acting P.J.
I Concur: Hull, J.
I respectfully dissent:
ROBIE, J.
- C055657 THE PEOPLE v. CHOWANIEC (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare an amended minute order and an amended abstract of judgment, both reflecting victim restitution of \$600.18, and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.
MORRISON, J.
We Concur: Sims, Acting P.J.
Robie, J.
- C051606 MINASIAN v. WEST (Not for Publication)**
The judgment is affirmed. Defendant shall recover his cost on appeal. ...
SIMS, Acting P.J.
We Concur: Davis, J.
Raye, J.
- C054721 In re CODY B.; BUTTE COUNTY (Not for Publication)**
DEPARTMENT OF EMPLOYMENT AND
SOCIAL SERVICES v. G.K. et al.
The order terminating parental rights is vacated, and the matter is remanded to the juvenile court with directions to order the Department to make a proper inquiry and to comply with the notice provisions of ICWA. If ... the BIA or a tribe determines that the minors are Indian children ... the juvenile court is ordered to conduct a new ... hearing If ... no response is received or the tribes and the BIA determines that the minors are not Indian children, all previous findings and orders shall be reinstated. In all other respects, the orders are affirmed.
DAVIS, J.
We Concur: Scotland, P.J.
Blease, J.

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C055550 **In re ANDREW D.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. EMPHRAIM D.** **(Not for Publication)**

The juvenile court's order is affirmed.

MORRISON, J.

We Concur: Scotland, P.J.

Butz, J.

December 18, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Raye, Associate Justice; and Horner, bailiff.

C051831 **WRIGHT v. COUNTY OF PLACER et al.**

Cause called. There was no appearance made for appellant. Richard L. Crabtree argued for respondent Labouf. Cause submitted.

C051991 **THE PEOPLE v. MORRISON**

Cause called. Susan D. Shors, court appointed counsel, argued for appellant. Robert K. Gezi, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:53 a.m., the court recessed. At 9:57 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C049959 **THE PEOPLE v. TOLLIVER et al.**

Cause called. Jerald W. Newton argued for appellant Villasenor. Jesse Witt, Deputy Attorney General, argued for respondent. Marilyn G. Burkhardt, court appointed counsel, argued for appellant Tolliver. Jesse Witt, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:41 a.m., the court recessed. At 10:49 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

C051016 **VOLO v. BARRILLEAUX**

Cause called. Roger A. Dreyer argued for appellant. S. Thomas Todd argued for respondent. Cause submitted.

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At 11:26 a.m., the court recessed. At 11:31 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C052927 BICHER v. THE SUPERIOR COURT OF SACRAMENTO COUNTY;
MEDICAL BOARD OF CALIFORNIA**

Cause called. Henry R. Fenton argued for petitioner. Gloria L. Castro, Deputy Attorney General, argued for respondent. Cause submitted.

At 12:07 p.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Cantil-Sakauye, Associate Justice.

C053523 BENNETT v. MOORE

Cause called. I. Robert Bennett argued as appellant in pro per. Daniel T. Mosier argued for respondent. Cause submitted.

At 2:19 p.m., the court recessed. At 2:23 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C053114 THE PEOPLE v. BRENNAN

Cause called. Peter Dodd, court appointed counsel, argued for appellant. Dawn S. Mortazari, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:47 p.m., the court recessed. At 2:50 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Morrison, Associate Justice.

C054252 THE PEOPLE v. NICHOLLS

Cause called. Gene D. Vorobyov, court appointed counsel, argued for appellant. Kelly E. LeBel, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:21 p.m., the court recessed. At 3:26 p.m., the court reconvened with Raye, Associate Justice; Morrison, Associate Justice; and Hull, Associate Justice.

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C052467 THE PEOPLE v. TORO

Cause called. Jeffrey S. Kravitz argued for appellant. Carlos A. Martinez, Deputy Attorney General, argued for respondent. Cause submitted.

C053325 RIGG et al. v. STATE OF CALIFORNIA

Cause called. John Houston Scott argued for appellants. John D. Adkisson argued and Gail Whaley appeared only for respondent. Cause submitted.

At 4:18 p.m. court recessed, until December 19, 2007 at 9:30 a.m.

C049298 THE PEOPLE v. COLE

(Not for Publication)

The trial court is direct to send an amended abstract of judgment to the Department of Corrections and Rehabilitation reflecting that defendant was not sentenced pursuant to the two strikes law. As modified, the judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Raye, J.

Cantil-Sakauye, J.

C053436 THE PEOPLE v. GOMES

(Not for Publication)

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Cantil-Sakauye, J.

C053633 THE PEOPLE v. WILKERSON

(Not for Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Nicholson, Acting P.J.

Butz, J.

C054649 THE PEOPLE v. FRAZIER

(Not for Publication)

The judgment is affirmed.

RAYE, Acting P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

C054987 THE PEOPLE v. BRODERICK

(Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Morrison, J.

Cantil-Sakauye, J.

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C055576 THE PEOPLE v. WYATT (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Morrison, Acting P.J.

Butz, J.

C055645 THE PEOPLE v. MEHRINGER (Not for Publication)

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.

Davis, J.

**C055958 In re KADEN H. et al.; SACRAMENTO (Not for Publication)
COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. KARLEE H.**

The orders of the juvenile court are affirmed.

BUTZ, J.

We Concur: Scotland, P.J.

Morrison, J.

December 19, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Raye, Associate Justice; and Haskett, bailiff.

C054763 MESSICK et al. v. RIPON UNIFIED SCHOOL DISTRICT et al.; DRISCOLL

Cause called. Thomas J. Driscoll argued for appellant Messick and intervener. Shirley A. Lee argued for appellants California Teachers. Marleen L. Sacks argued for respondents. Cause submitted.

At 10:04 a.m., the court recessed. At 10:09 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

C051564 In re NATHAN POPE on Habeas Corpus

Cause called. Krista Leigh Pollard, Deputy Attorney General, argued for appellant. Deborah J. Prucha argued for respondent. Cause submitted.

At 10:31 a.m., the court recessed. At 10:35 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Butz, Associate Justice.

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C052180 HANFORD READY MIX, INC. v. DOMINGUEZ

Cause called. Stephen J. Mackey argued for appellant. There was no appearance made for respondent. Cause submitted.

At 10:42 a.m., the court recessed. At 10:46 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Butz, Associate Justice.

C053124 THE PEOPLE v. BROOKS

Cause called. Marcus Sanders Topel argued and Dan Cook appeared only for appellant. Carlos A. Martinez, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:17 a.m., the court recessed. At 11:22 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Butz, Associate Justice.

C050128 THE PEOPLE v. WALTZ

Cause called. Charles M. Bonneau argued for appellant. Angelo S. Edralin, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:54 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Morrison, Associate Justice.

C054785 BISCOTTI, a Minor, etc. v. YUBA CITY UNIFIED SCHOOL DISTRICT

Cause called. Michael J. Trezza argued for appellant. Paul D. Hoskins argued for respondent. Cause submitted.

At 2:27 p.m., the court recessed. At 2:31 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Butz, Associate Justice.

C052417 BAKER et al. v. GODDARD et al.

Cause called. Scott E. Rubright argued for appellant. Lew A. Garbutt argued for respondent. Cause submitted.

At 3:04 p.m., the court recessed. At 3:14 p.m., the court reconvened with Nicholson, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

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**C055489 In re JEREMY G.; THE PEOPLE v. (Not for Publication)
JEREMY G.**

The order is vacated and the cause is remanded to the juvenile court, with directions to enter a new order striking count 2 of the petition and to conduct a new disposition hearing on the remaining count. In all other respects, the judgment (order) is affirmed.

BUTZ, J.

We Concur: Davis, Acting P. J.
 Cantil-Sakauye, J.

**C050261 THE PEOPLE v. BUITRAGO
BY THE COURT:**

Appellant's petition for rehearing is denied.
SCOTLAND, P.J.

December 20, 2007

**C052816 HIRSCH, as Trustee, etc., et al. (Not for Publication)
v. JANSSEN et al.**

The judgment is reversed. The Hirsches are awarded their costs on appeal.

DAVIS, Acting P.J.

We Concur: Nicholson, J.
 Butz, J.

**C053724 In re NEHEMIAH R.; SACRAMENTO (Not for Publication)
COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. DANIELLE R.
et al.**

The judgment (dispositional order) are affirmed.

BUTZ, J.

We Concur: Sims, Acting P.J.
 Hull, J.

**C054693 In re ALEXIS U. et al.; SACRAMENTO (Not for Publication)
COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. CHRISTINA P.**

The orders of the juvenile court are affirmed.

BUTZ, J.

We Concur: Davis, Acting P. J.
 Raye, J.

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**C055463 In re CLARENCE D.; THE PEOPLE v. (Not for Publication)
CLARENCE D.**

The adjudication on count 1 is vacated. The adjudication on count 2 is affirmed.

DAVIS, J.

We Concur: Blease, Acting P.J.
 Hull, J.

**C053974 THE PEOPLE v. GLASER
BY THE COURT:**

Appellant's petition for rehearing is granted. The decision filed on November 28, 2007, is vacated.

SCOTLAND, P.J.

**C056889 TRACY PRESS, INC. v. CITY OF TRACY et al.
BY THE COURT:**

Respondents' motion to dismiss the appeal is granted. The appeal filed on September 14, 2007, is dismissed.

RAYE, Acting P.J.

December 21, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Nicholson, Associate Justice; and Haskett, bailiff.

C055192 ALLIANT INSURANCE SERVICES, INC., et al. v. GADDY

Cause called. Christopher L. Pitet argued and Theodore E. Bacon appeared only for appellant. James W. Miller argued for respondents. Cause submitted.

At 10:08 a.m., the court recessed. At 10:13 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Morrison, Associate Justice.

C054486 CURTISS v. SHORT

Cause called. Robert G. Simpson argued for appellant. Jonz Norine argued for respondent. Cause submitted.

At 10:47 a.m., the court recessed. At 10:49 a.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

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C053873 DENTAL BOARD OF CALIFORNIA v. MILLER

Cause called. Jessica M. Amgwerd, Deputy Attorney General, argued and Gail Cecchittini Whaley appeared only for appellant. Rick Miller argued for respondent in pro per. Cause submitted.

At 11:08 a.m., the court recessed. At 11:12 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

C054630 SX RANCH, INC. v. VOGT et al.

Cause called. James R. Rose argued for appellant. Scott E. Rubright argued for respondents. Cause submitted.

At 11:28 a.m. court recessed, until January 14, 2008 at 9:30 a.m.

**C053076 THE PEOPLE v. LEXINGTON NATIONAL (Certified for Publication)
INSURANCE CO.**

The order and judgment are affirmed. The People are awarded costs on appeal.

MORRISON, Acting P.J.

We Concur: Robie, J.

Butz, J.

**C054673 SHASTA-SISKIYOU TRANSPORT v. (Not for Publication)
HILTON**

The judgment is affirmed. Steve Hilton is awarded his costs on appeal.

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BLEASE, Acting P.J.

We Concur: Davis, J.

Hull, J.

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C054534 In re S.D. et al.; BUTTE COUNTY (Not for Publication)
DEPARTMENT OF EMPLOYMENT AND
SOCIAL SERVICES v. N.D. et al.

The November 16, 2006, orders of the juvenile court as to S.D. are reversed, and the matter is remanded to the juvenile court with directions to order DESS to provide the tribes with proper notice of the proceedings under the ICWA. If ... no tribe indicates that S.D. is an Indian child ... then the juvenile court shall reinstate the November 16, 2006, orders. If ... a tribe responds affirmatively, then the court must consider the issues pursuant to the procedures and evidentiary requirements of the ICWA. In all other respects, the orders are affirmed.

RAYE, Acting P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

C052041 THE PEOPLE v. HAZLE (Certified for Publication)
THE COURT:

It is ordered that the opinion filed herein on November 29, 2007, be modified.... This modification does not change the judgment.

FOR THE COURT:

SIMS, Acting P.J.

Morrison, J.

Robie, J.